



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,147	11/03/2003	Todd B. Wendle	WE51-002	5568

7590 06/08/2004

RANDY A. GREGORY
GREGORY LAW OFFICE
P.O.BOX 31090
SPOKANE, WA 99223-3018

EXAMINER


BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/701,147	Applicant(s) WENDLE, TODD B. 	
	Examiner James R. Brittain	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

If applicant seeks to have priority to the parent, then the first sentence in the specification needs to be changed from an abject statement renouncing any ties to any other application.

Claim Objections

Claims 21, 31, 35, and 45 are objected to because of the following informalities: The limitation "a first enlarged opening" (claim 21, line 18; claim 31, line 22; claim 35, line 17; claim 45, line 23) is a double inclusion of the term previously located in the claim and --a second enlarged opening-- is suggested. The term "the second enlarged opening" (claim 21, line 20; claim 31, line 24; claim 35, line 19; claim 45, line 25) lacks clear antecedent basis and the earlier change would obviate this objection. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-48 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The use of the terms "interlock features" (first occurrence in each of the following claims being located in claim 21, line 7; claim 31, line 7; claim 35, lines 5-6; claim 45, line 7) and "interlock portion" (first occurrence in each of the following claims being located in claim

Art Unit: 3677

35, line 7; claim 45, line 5) lack antecedent basis in the specification as filed because "interlock features" is a much broader term than "beads", which is used in the specification as filed, and "interlock portion" is a much broader term than "tag", which is used in the specification as filed. They are therefore new matter. A preliminary amendment does not have the same standing as the original filing and new matter has been incorporated into the preliminary amendment.

Double Patenting

Claims 21-48 are rejected under obviousness type double patenting.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-28 and 35-42 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Toepfer (US 2961785).

Toepfer (figures 1-4) teaches identification band structure used to a single article or bundle multiple articles so as to form a bundling tie comprising a tab 7 also defining an interlocking portion, and a strand 6 connected to the tab and having a plurality of interlocking features 8 at spaced locations along the flexible portion, and two locking slots 13, 14 formed in the tab, each locking slot 13, 14 having a portion adjacent the edge 17 that is an enlarged opening through which the strand and interlock features may pass (col. 3, line 19-27) and a reduced opening adjacent the edge 18 that is conjoined to the enlarged opening so as to allow the strand to be moved from the enlarged opening to the reduced opening, the reduced opening being

Art Unit: 3677

smaller than the enlarged opening and sized to prevent the interlock features from being pulled therethrough when the strand is positioned into the reduced opening to form a loop. As shown in figures 2 and 3, the interlock features can be secured in the reduced opening adjacent edge 18 so as to prevent removal and in each configuration, the tie can secure bundled items. In regard to claim 28 and 42, the interlock features of the tie of Toepfer can inherently be arbitrarily assigned to two sections, one proximate the tab, the other distal. There are no distinguishing features claimed for the two sets. In regard to claims 22-27 and 36-41, the species shown in figure 4 has an aperture 19 fully capable of being used as a hanging hole and the area 12 is fully capable of serving as a handle because it is an appendage fully capable of being gripped.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Toepfer (US 2961785) in view of Hayashi (US 4631783).

Toepfer (figures 1-3) teaches identification band structure used to a single article or bundle multiple articles so as to form a bundling tie comprising a tab 7 also defining an interlocking portion, and a strand 6 connected to the tab and having a plurality of interlocking features 8 at spaced locations along the flexible portion, and two locking slots 13, 14 formed in the tab, each locking slot 13, 14 having a portion adjacent the edge 17 that is an enlarged opening through which the strand and interlock features may pass and a reduced opening adjacent the

Art Unit: 3677

edge 18 that is conjoined to the enlarged opening so as to allow the strand to be moved from the enlarged opening to the reduced opening, the reduced opening being smaller than the enlarged opening and sized to prevent the interlock features from being pulled therethrough when the strand is positioned into the reduced opening to form a loop. As shown in figures 2 and 3, the interlock features can be secured in the reduced opening adjacent edge 18 so as to prevent removal and in each configuration, the tie can secure bundled items. The difference is that the tag or interlock portion lacks an opening for a tool. However, Hayashi (figures 1, 4) teaches that it is desirable to utilize a bundling tie also as a tool holder for a chuck key. As a bundling tie is commonly associated with an electric cord and the use of tools such as drills with chuck keys are often used with the cords and loss prevention of the chuck key is desirable, it would have been obvious to modify the bundling tie of Toepfer so that the tab has an opening to receive a chuck key as taught by Hayashi as being desirable so as to keep a chuck key in close association with the drill.

Conclusion

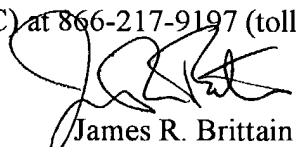
The patents of Jönsson (US 4752054, figure 4), Nitzsche et al. (WO 90/11945, figure 1), Angus et al. (US 6227399, figure 3), Rose et al. (D342668, figure 7), Steinborn (US 3403430, figures 2, 3) and Langbauer (DE 19716864, figures 1, 4, 7) teach pertinent fastener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

Art Unit: 3677

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB